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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,338	01/17/2003	Brian Francis Gray	AA431 F	1452

27752 7590 10/18/2005

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER

GIBSON, KESHIA L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/089,338	Applicant(s) GRAY ET AL.	
	Examiner Keshia Gibson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a barrier sheet that has been treated to reduce the migration of a skin care composition, does not reasonably provide enablement for a barrier sheet that is treated releasably. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The claim language calls for the barrier sheet to be "treated releasably," which case "releasably" modifies or describes the manner in which the barrier sheet is treated, as opposed to a structure or property resulting from a treatment. For example, "treated releasably" could imply that the treatment is capable of being removed (released) from the barrier sheet. Thus, although the invention is enabled for a barrier sheet that has been treated so as to become releasable, the disclosure is not considered to be enabled for a barrier sheet that is treated releasably.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (US 5,683,377) in view of Hanser.

In regard to Claim 1 and 10, Mizutani discloses an absorbent article 1 having a topsheet 3, a backsheet 4, an absorbent core 5, longitudinal side edges 17, 18, flaps 7 having an adhesive 9 on their garment facing surface; a flap cover/barrier sheet 2/12 covers the flap adhesive and is releasable from the article (whole document). Mizutani does not expressly disclose that at least a portion of the topsheet has a skin care composition provided thereon or that the barrier sheet is treated. Hanser discloses an absorbent article having a topsheet, backsheet, core, longitudinal side edges, flaps having an adhesive, a flap cover, and a barrier sheet 25/125/etc (whole document). Hanser further discloses that topsheets having oil-based skin composition placed thereon reduce the adherence of body exudates to the skin of the wearer, thereby improving the ease of clean up (page 22, lines 22-27; page 20, lines 5-16; page 21, line 31-page 24, line 17). The barrier sheet may serve to protect the lotioned topsheet and may be treated with silicone and polyvinyl alcohol (PVA), which would be a selection from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures

thereof (page 18, lines 26-page 20, line16). One of ordinary skill in the art would have been motivated to modify the article of Mizutani by providing the topsheet with an oil-based composition and further comprising a barrier sheet treated with silicone and polyvinyl alcohol (PVA), since doing so would reduce the adherence of body exudates to the skin of the wearer and also provide releasable protection for the lotioned topsheet. Thus, it would have been obvious to one of ordinary skill in the art to modify the article of Mizutani by providing the topsheet with an oil-based composition and further comprising a barrier sheet treated with silicone and polyvinyl alcohol (PVA), which would be a selection from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures thereof, as taught by Hanser, since doing so would reduce the adherence of body exudates to the skin of the wearer and also provide releasable protection for the lotioned topsheet.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mills (US 6074376), Tameishi et al (US 6497692), Braverman et al. (US 6656168), Samuelsson (US 6783519), Yoshimasa et al. (US 20040243084), and Mizutani et al. (US 2005/0137554).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Keshia Gibson  
Examiner  
Art Unit 3761

klg 10/5/05

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**  
